Civil Writ Petition No.1978/92
Kaluram & Ors Vs. State of Rajasthan & Ors

Date of Order ::: 08/12/05

Hon'ble Mr. Justice Ajay Rastogi

Mr. A.K.Bhandari) for petitioners
Mr. Sanjay Rahar)
Mr. J.K.Agrawal, Addl.Govt.Adv. For the State

Instant writ petition has been filed questioning validity of R.273 of Rajasthan Land Revenue (Land Record) Rules, 1957 ("**Land Revenue Rules**") which provides different standard with conditions of eligibility and procedure for recruitment in the cadre of Class IV to next higher post of Patwari.

Petitioners have been working on different posts in the cadre of Class IV and were considered for promotion against 10% reserved quota for the post of Patwari under Land Revenue Rules. Under relevant Rule, conditions of eligibility are laid down which includes age of incumbent and one has to qualify departmental examination for promotion to higher post of Patwari.

Counsel for petitioners contends that other Class IV employees like them who are members of Rajasthan Class IV service (Recruitment & Others Service Condition) Rules, 1963 ("**Class IV Rules**"), are considered under 15% reserved quota for promotion to the post of LDC without any departmental examination, but merely on the basis of seniority cum suitability. According to him, adopting two different standards for promotion from among Class IV servants to the post of Patwari/LDC in the self-same State, is arbitrary and

violative of Art.14 & 16 of Constitution of India.

Respondents have filed reply to writ petition inter-alia averring that these are different sets of Service Rules for posts in different department of the State laying down their independent procedure for recruitment to the post of Patwari or LDC carrying same pay scale but they cannot be compared to each others; and the rule making authority in its wisdom is competent under relevant service Rules to lay down different procedure for recruitment to the post of either Patwari or LDC and in this view of matter, this cannot be said be a case of discrimination particularly when they have separate rules regulating their service conditions and incumbents are not similarly situated.

I have considered rival contentions of both the parties and perused material on record. Indisputably, petitioners' services are to be considered for promotion under Land Revenue Rules for the post of Patwari, which lays down conditions of eligibility of qualifying departmental examination, whereas those who are appointed as Class IV and those who are members of Class IV Service Rules, are considered for promotion to the post of LDC under Rajasthan Subordinate Ministerial Staff Rules, 1957, and these two Service Rules, ibid, lays down different set of procedure of recruitment for promotion to higher post. Once incumbents are members of different set of Rules, they cannot be compared and in my opinion, question of discrimination in facts situation of present case, does not arise.

Counsel further submits that when petitioner was considered for promotion by that time, no examination for a considerable time under Land Revenue Rules was not held and he became over-age being not eligible due to age prescribed under the Rules, and this inaction has deprived his right of consideration. In my opinion, respondents in para 13 of reply averred that examination is held only when there is a permanent substantive post against their respective 10% quota. When there was no post available in Alwar district, question of holding any examination does not arise, and that apart, petitioner was only entitled to be considered for promotion only against 10% reserved quota under Land Revenue Rules. There is nothing on record to show that there was any post available, yet the State Government failed to hold examination under the Rules.

Consequently, this writ petition fails and is hereby dismissed. No costs.

(Ajay Rastogi), J.

K.Khatri/1978CWP1992.

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